

# **YOUTH EMPLOYMENT STANDARDS ACT**

## **Act 90 of 1978, as amended**

AN ACT to provide for the legal employment and protection of minors; to provide for the issuance and revocation of work permits; to provide for the regulation of hours and conditions of employment of minors; to prescribe powers and duties of the departments of labor and education; to provide for the enforcement of this act; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1978, Act 90, Eff. June 1, 1978.

The People of the State of Michigan enact:

### **409.101 Short title.**

Sec. 1. This act shall be known and may be cited as the "youth employment standards act".

History: 1978, Act 90, Eff. June 1, 1978.

### **409.102 Definitions.**

Sec. 2. As used in this act:

(a) "Employ" means engage, permit, or allow to work.

(b) "Employer" means a person, firm, or corporation that employs a minor, and includes the state or a political subdivision of the state, an agency or instrumentality of the state, and an agent of an employer.

(c) "Issuing officer" means the chief administrator of a school district, intermediate school district, public school academy, or nonpublic school, or a person authorized by that chief administrator in writing to act on his or her behalf.

(d) "Minor" means a person under 18 years of age.

(e) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: 1978, Act 90, Eff. June 1, 1978;--Am. 1996, Act 438, Imd. Eff. Dec. 18, 1996.

### **409.103 Employment of minor; prohibited occupations; minimum age.**

Sec. 3. (1) A minor shall not be employed in, about, or in connection with an occupation that is hazardous or injurious to the minor's health or personal well-being or that is contrary to standards established under this act, unless a deviation is granted under section 20.

(2) The minimum age for employment of minors is 14 years, subject to the following exceptions and limitations:

(a) A minor at least 11 years of age and less than 14 years of age may be employed as a youth athletic program referee or umpire for an age bracket younger than his or her own age if an adult representing the athletic program is on the premises at which the athletic program event is occurring and a person responsible for the athletic program possesses a written acknowledgment of the minor's parent or guardian consenting to the minor's employment as a referee or umpire.

(b) A minor 11 years of age or older may be employed as a golf caddy.

(c) A minor 13 years of age or older may be employed in farming operations as described in section 4(3).

(d) A minor 11 years of age or older may be employed as a bridge caddy at any event sanctioned by the American contract bridge league or other national bridge league association. (e) A minor 13 years of age or older may be employed to perform services which entail setting traps for formal or informal trap, skeet, and sporting clays shooting events.

History: 1978, Act 90, Eff. June 1, 1978;--Am. 1987, Act 71, Imd. Eff. June 29, 1987;--Am 1997, Act 132, Imd. Eff. Nov. 14, 1997.

### **409.104 Employment of minor; copy of work permit or temporary permit required; issuance and filing of work permit; duration of temporary permit; oath; return of permit; exception to work permit requirement; evidence of age.**

Sec. 4. (1) Except as provided in subsection (3), a minor shall not be employed in an occupation regulated by this act until the person proposing to employ the minor procures from the minor and keeps on file at the place of employment a copy of the work permit or a temporary permit. The work permit shall be issued by the issuing officer of the school district, intermediate school district, public school academy, or nonpublic school at which the minor is enrolled, and a copy of the work permit shall be placed in the minor's permanent school file for as long as the minor is employed. A temporary permit shall be valid for 10 days from the date of issue. A work permit may be issued by the school district in which the minor's place of employment is located, or by the public school academy or

nonpublic school nearest that place of employment. An issuing officer may administer oaths in relation to work permits.

(2) Immediately after the termination of the minor's employment, the employer shall return the permit to the issuing officer.

(3) The work permit requirement of subsection (1) does not apply to a minor 13 years of age or older who is employed in farming operations involving detasseling, roguing, hoeing, or any similar act involved in the production of seed. This exception applies only when a minor is employed during school vacation periods or when the minor is not regularly enrolled in school. The work permit exception provided in this subsection does not provide an exemption from any other provision of this act. An employer shall keep on file at the place of employment evidence of the age of any minor employed under this work permit exception. Evidence of the age of the minor shall be established as provided in section 5(b).

History: 1978, Act 90, Eff. June 1, 1978;--Am. 1987, Act 71, Imd. Eff. June 29, 1987;--Am. 1996, Act 438, Imd. Eff. Dec. 18, 1996.

#### **409.105 Work permit; application; examination, approval, and filing of papers.**

Sec. 5. An issuing officer shall issue a work permit only upon application in person by the minor desiring employment and after having examined, approved, and filed the following papers:

(a) A statement of intention to employ, signed by the prospective employer or by a person authorized by the prospective employer, setting forth the general nature of the occupation in which the employer intends to employ the minor, the hours during which the minor will be employed, the wages to be paid and other information the department of education, in cooperation with the department of labor, requires.

(b) Evidence showing that the minor is of the age required by this act. Proof of age shall be established by one of the following:

(i) A certified copy of the birth record or any other proof of age showing the place and date of birth.

(ii) A certified copy of valid operator's license issued by this state clearly showing date of birth.

(iii) The school record or the school census record.

(iv) The sworn statement of the minor's parent or guardian, together with a corroborating statement of a physician.

(v) If documentary proof as described in subparagraphs (i) to (iv) is not obtainable, the issuing officer may accept other documentation as established by department of education rules.

History: 1978, Act 90, Eff. June 1, 1978.

#### **409.106 Work permit; form; color; contents; rules.**

Sec. 6. (1) Work permits shall be issued in the form prescribed by the department of education in cooperation with the department of labor and in accordance with instructions so prescribed. The color of work permits for minors under 16 years of age shall be distinct from that for minors 16 years of age and over. Work permits shall state the name and address of the minor, the date of birth, the occupation and industry in which the minor is employed, the employer's name and address, and other information required by the department of education.

(2) The department of education shall promulgate rules prescribing standards for the issuance of work permits, which shall include the following factors:

(a) Evidence of age.

(b) Standards of work as established by the department of labor and federal regulation.

(c) Statutory requirements.

(3) A fee shall not be charged for a work permit or other record required by this act.

History: 1978, Act 90, Eff. June 1, 1978.

Administrative rules: R 340.186 et seq.; R 408.201 et seq.; R 409.1 et seq.; and R 423.401 et seq. of the Michigan Administrative Code.

#### **409.107 Revocation of permit; factors; record of refusal, suspension, or revocation; informing minor of appeal process.**

Sec. 7. (1) The issuing officer may revoke a permit based solely on the following factors:

(a) Poor school attendance, characterized by repeated erratic or unexcused absences, which results in consistent performance of school work at a level lower than that which preceded the minor's employment. The work permit shall be revoked only after the permit has been suspended. The suspension shall take place upon notice to the minor and the employer, and an opportunity to correct the deficiency is afforded. The suspension shall not exceed 30 days after date of notification.

(b) The minor's employment is in violation of federal or state law or of a regulation or rule promulgated under federal or state law, and the issuing officer is informed of the violation by the department of labor.

(2) The issuing officer shall keep a record of each refusal, suspension, or revocation and the reasons for the action. Upon revocation, the minor shall be informed of the appeal process and shall be given instructions as to the

initiation of an appeal.

History: 1978, Act 90, Eff. June 1, 1978.

#### **409.108 Failure or refusal to issue work permit; appeal; procedure.**

Sec. 8. The failure or refusal of the issuing officer to issue a work permit may be appealed in accordance with Act No. 306 of the Public Acts of 1969, as amended, by the minor or by the parent or guardian of the minor applying therefor, or by the person or agency to whom custody of the minor has been awarded. An appeal may be taken in the same manner from the revocation of a permit.

History: 1978, Act 90, Eff. June 1, 1978.

#### **409.109 Work permit as evidence of age.**

Sec. 9. A work permit issued in accordance with this act shall be conclusive evidence of the age of the minor for whom issued in a proceeding involving the employment of the minor under this act.

History: 1978, Act 90, Eff. June 1, 1978.

#### **409.110 Minor under 16 years; days and hours of employment.**

Sec. 10. A minor under 16 years shall not be employed in an occupation subject to this act for more than 6 days in 1 week, nor for a period longer than a weekly average of 8 hours per day or 48 hours in 1 week, nor more than 10 hours in 1 day. The minor shall not be employed between the hours of 9 p.m. and 7 a.m. A minor who is a student in school shall not be employed more than a combined school and work week of 48 hours during the period when school is in session.

History: 1978, Act 90, Eff. June 1, 1978.

#### **409.111 Minor 16 years or older; days and hours of employment; definitions.**

Sec. 11. (1) Except as provided in subsection (3), a minor 16 years of age or older shall not be employed in an occupation subject to this act for more than any of the following periods:

- (a) Six days in 1 week.
- (b) A period longer than a weekly average of 8 hours per day or 48 hours in 1 week.
- (c) Ten hours in 1 day.

(d) For a minor 16 years of age or older who is a student in school, a combined school and work week of 48 hours during the period school is in session.

(2) Except as provided in subsection (3), a minor 16 years of age or older shall not be employed between 10:30 p.m. and 6 a.m. However, except as provided in subsection (3), a minor 16 years of age or older who is a student in school may be ***employed until 11:30 p.m. on any of the following days:***

***(a) On Fridays and Saturdays.***

(b) During school vacation periods.

(c) During periods when the minor is not regularly enrolled in school.

(3) A minor 16 years of age or older may be employed in farming operations involved in the production of seed or in agricultural processing for a period greater than the periods described in subsections (1) and (2) if all of the following conditions are met:

(a) If the minor is a student in school, the period greater than the periods described in subsections (1) and (2) occurs when school is not in session.

(b) The minor is employed for not more than 11 hours in 1 day.

(c) The minor is employed for not more than 62 hours in any week. ***However, the minor shall not be required by an employer to work more than 48 hours during any week without the consent of the minor.***

(d) The minor is not employed between 2 a.m. and 5:30 a.m.

(e) The agricultural processing employer maintains on file a written acknowledgment of the minor's parent or guardian consenting to the period of employment authorized under this subsection.

(4) As used in this section:

(a) "Agricultural processing" means the cleaning, sorting, or packaging of fruits or vegetables.

(b) "Farming operations involved in the production of seed" means farming activities and research involved in the production of seed, including plant detasseling, hand-pollination, roguing, or hoeing, and any other similar farming activity required for commercial seed production.

History: 1978, Act 90, Eff. June 1, 1978;--Am. 1995, Act 251, Eff. Mar. 28, 1996;--Am. 1996, Act 499, Imd. Eff. Jan. 9, 1997, Am. 2001, Act 418, Imd. Eff. Jan. 8, 2001

#### **409.112 Meal and rest period.**

Sec. 12. A minor shall not be employed for more than 5 hours continuously without an interval of at least 30 minutes for a meal and rest period. An interval of less than 30 minutes shall not be considered to interrupt a continuous period of work.

History: 1978, Act 90, Eff. June 1, 1978.

**409.112a Employment of minor in occupation involving a cash transaction after sunset or 8 p.m. at fixed location; condition.**

Sec. 12a. A minor who would otherwise be permitted under this act to be employed in an occupation subject to this act shall not be employed in an occupation that involves a cash transaction subject to this act after sunset or 8 p.m., whichever is the earlier, at a fixed location unless an employer or other employee 18 years of age or older is present at the fixed location during those hours.

History: Add. 1980, Act 436, Eff. Mar. 31, 1981.

**409.113 Posting copy of SS 409.110, 409.111, and 409.112; time record.**

Sec. 13. (1) Each employer shall keep posted conspicuously in or about the premises at which a minor is employed, a printed copy of sections 10, 11, and 12 as furnished by the department.

(2) Each employer shall keep in or about the premises at which a minor is employed, an adequate time record which shall state the number of hours worked by the minor each day of the week together with starting and ending times and other information the department of labor requires. The employer shall keep the record on file for not less than 1 year.

History: 1978, Act 90, Eff. June 1, 1978.

**409.114 Employment of minor in performance by performing arts organization; approval.**

Sec. 14. This act shall not prevent a minor from being employed in a performance by any performing arts organization if a letter of approval is obtained from the department of labor by the representative of the arts organization. Approval shall be issued only if the department of labor determines that the employment is not detrimental to the health or personal well-being of the minor, that the minor is adequately supervised, and that the minor's education is not neglected.

History: 1978, Act 90, Eff. June 1, 1978.

**409.114a Performing in or being subject to child abusive commercial activity.**

Sec. 14a. Except as provided in section 14, a minor shall not perform in or be a subject of a child abusive commercial activity as defined in section 145c of Act No. 328 of the Public Acts of 1931, being section 750.145c of the Michigan Compiled Laws.

History: Add. 1978, Act 228, Imd. Eff. June 14, 1978.

**409.115 Employment of minor in establishment manufacturing, distributing, or selling alcoholic beverages.**

Sec. 15. (1) A work permit shall not be issued authorizing the employment of a minor 16 years of age or older in, about, or in connection with that part of an establishment where alcoholic beverages are distilled, rectified, compounded, brewed, manufactured, bottled, consumed, distributed, sold at retail, or sold for consumption on the premises unless the sale of food or other goods constitutes at least 50% of the total gross receipts.

(2) This act shall not prohibit the issuance of work permits for 14- and 15-year-olds to be employed in establishments where alcoholic beverages are sold at retail, if the sale of food or other goods constitutes at least 50% of the total gross receipts of the establishment. Minors 14 and 15 years of age shall not be employed in, or about, or in connection with that part of the establishment where alcoholic beverages are consumed or sold for consumption on the premises.

History: 1978, Act 90, Eff. June 1, 1978.

**409.116 Exemption; minor 16 years of age completing requirements for graduation; minor 17 years of age passing general educational development test; duty of employer.**

Sec. 16. (1) This act shall not apply to or prohibit the employment of a minor 16 years of age or older who has completed the requirements for graduation from high school. An employer, before employing the minor, shall obtain and keep on file a certification from the school the minor attended certifying that the minor has completed the requirements for graduation.

(2) This act shall not apply to or prohibit the employment of a minor 17 years of age or older who has successfully passed the general educational development test. An employer, before employing the minor, shall obtain and keep on file proof of the minor's successful completion.

History: 1978, Act 90, Eff. June 1, 1978.

**409.117 Exemption; emancipated minor; duty of employer.**

Sec. 17. This act shall not apply to nor prohibit the employment of an emancipated minor, as defined by section 4 of Act No. 293 of the Public Acts of 1968, as amended, being section 722.4 of the Michigan Compiled Laws. An employer, before employing the minor, shall obtain and keep on file proof of the minor's emancipated status.

History: 1978, Act 90, Eff. June 1, 1978.

**409.118 Exemption; minor 14 years of age employed under agreement or contract between employer and governing body of school district, public school academy, or nonpublic school.**

Sec. 18. This act does not apply to or prohibit the employment of a student minor 14 years of age or older by an employer if a written agreement or contract is entered into between the employer and the governing body of the school district, public school academy, or nonpublic school at which the minor is enrolled. The employment shall not be in violation of a federal statute or regulation and a signed copy of the agreement shall be on file in the place of employment before the minor begins employment.

History: 1978, Act 90, Eff. June 1, 1978;--Am. 1996, Act 438, Imd. Eff. Dec. 18, 1996.

**409.119 Exemptions generally; hours of work.**

Sec. 19. (1) This act shall not apply to or prohibit a minor from engaging in:

(a) Domestic work or chores in connection with private residences.

(b) Soliciting, distributing, selling, or offering for sale newspapers, magazines, periodicals, political or advertising matter.

(c) Shoe shining.

(d) Services performed as members of recognized youth oriented organizations that are engaged in citizenship training and character building, if the services are not intended to replace employees in occupations for which workers are ordinarily paid.

(e) Employment in a business owned and operated by the parent or guardian of the minor. For the purposes of this subdivision, a business shall be considered to be owned by the parent or guardian if the parent or guardian is either the sole owner, partner, or stockholder in the business and shall be considered to be operated by the parent or guardian if he or she devotes substantially all of his or her working hours to the operation of the business.

(f) Farm work if the employment is not in violation of a standard established by the department of labor. Farm work means the work activity designated in major groups 01 and 02 of the standard industrial classification manual, United States bureau of the budget, 1972 edition.

Farm work includes any practices performed on a farm as an incident to or in conjunction with such farming operations including preparation for market delivery to storage or market or to carriers for transportation to market.

(g) Employment by a school, academy, or college in which the student minor 14 years of age or older is enrolled.

(2) If a minor is required by law to attend school, the work may only be performed outside of school hours, unless the minor enrolled and employed under a work-related educational program.

History: 1978, Act 90, Eff. June 1, 1978.

Compiler's note: In subsection (2), "minor enrolled" evidently should read "minor is enrolled".

**409.120 Rules; deviations.**

Sec. 20. (1) The department of labor shall promulgate rules prescribing standards not inconsistent with this act as to the working conditions, safety, health and personal well-being of minors in various types of employment.

(2) Deviations from established standards or from hours by employment shall be granted by the director of labor when it is determined to be in the best interests of the minor and the community. The procedures for applying and issuing deviations shall be prescribed by the department of labor.

History: 1978, Act 90, Eff. June 1, 1978.

**409.121 Enforcement and prosecution of act; right of entry and inspection.**

Sec. 21. The department of labor shall enforce this act and assist in the prosecution of this act. The department shall have the authority to enter and inspect any place where a minor may be employed and to have access to work permits, age certificates, or other proof of age and time records of the employer, and other records which may aid in the enforcement of this act.

History: 1978, Act 90, Eff. June 1, 1978.

**409.122 Violation as misdemeanor or felony; penalties.**

Sec. 22. (1) Except as provided in subsection (2) or (3), a person who employs a minor in violation of this act, violates this act or a rule promulgated under this act, or obstructs the department of labor in the enforcement of this act is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$500.00, or both.

(2) A person who employs, permits, or suffers a minor in violation of section 12a is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$2,000.00, or both. A person who commits a second offense under section 12a is guilty of a misdemeanor, punishable by imprisonment for

not more than 2 years, or a fine of not more than \$5,000.00, or both. A person who commits a third or subsequent violation of section 12a is guilty of a felony, punishable by imprisonment for not more than 10 years, or a fine of not more than \$10,000.00, or both.

(3) A person who employs, permits, or suffers a minor to be employed or to work in violation of section 14a is guilty of a felony, punishable by imprisonment for not more than 20 years, or a fine of not more than \$20,000.00, or both.

History: 1978, Act 90, Eff. June 1, 1978;--Am. 1978, Act 228, Imd. Eff. June 14, 1978;--Am. 1980, Act 436, Eff. Mar. 31, 1981.

#### **409.123 Repeal of SS 409.1 to 409.30 and 380.1597.**

Sec. 23. (1) Act No. 157 of the Public Acts of 1947, as amended, being sections 409.1 to 409.30 of the Compiled Laws of 1970, is repealed.

(2) Section 1597 of Act No. 451 of the Public Acts of 1976, being section 380.1597 of the Compiled Laws is repealed.

History: 1978, Act 90, Eff. June 1, 1978.

#### **409.124 Effective date.**

Sec. 24. This act shall take effect June 1, 1978.

History: 1978, Act 90, Eff. June 1, 1978.

March 2001